

**TITLE 15. BOARD OF PAROLE HEARINGS  
(FORMERLY BOARD OF PRISON TERMS)**

[Notice published October \_\_, 2006]

**NOTICE OF PROPOSED RULEMAKING  
RN 06-02**

**SUBJECT: OAL File No.: 06-0926-07 E  
Implementation of Penal Code Section 3000.1  
Adoption of California Code of Regulations (CCR), Title 15, Section 2275**

**Emergency Regulation Approved: October 6, 2006**

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) proposes to adopt Title 15, Division 2, California Code of Regulations (CCR) § 2275 concerning implementation of hearings required under Penal Code section 3000.1, after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Board has not scheduled a public hearing on this proposed regulatory action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Board. ***The written comment period on the proposed regulations will commence on OCTOBER 27, 2006, and will close at 5:00 p.m. on DECEMBER 11, 2006.*** All comments must be submitted in writing (by mail, fax or e-mail) to the Agency Contact Person identified in this Notice by that time in order for the comments to be considered by the Board. Submit comments to:

Teresa A. Arcure, Regulations Coordinator  
Board of Parole Hearings  
PO Box 4036  
Sacramento, CA 95812-4036  
Telephone: (916) 322-9424  
Facsimile: (916) 322-3475  
E-mail: [Teresa.Arcure@cdcr.ca.gov](mailto:Teresa.Arcure@cdcr.ca.gov)

## **AUTHORITY and REFERENCE**

This regulation is submitted pursuant to the Board's authority under Government Code § 12838.4 and Penal Code §§ 3052 and 5076.2. This regulation is adopted to implement, interpret, and make specific § 3000.1 of the Penal Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Government Code § 12838.4 vests the Board of Parole Hearings with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms, Narcotic Addict Evaluation Authority, and Youthful Offender Parole Board, which no longer exist.

Penal Code § 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code § 5076.2 authorizes the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

The intent of the adoption of § 2275 is to implement, interpret and make specific the hearings required under Penal Code § 3000.1(d). Specifically, this regulation implements and makes specific the statute by identifying the composition of the hearing panel.

Penal Code § 3000.1 (d) provides special hearings for persons convicted under Penal Code § 1168 of first or second degree murder with a life sentence who are revoked parole. Within 12 months of the revocation, the prisoner must be given a Penal Code § 3000.1 hearing to determine whether they shall be released or retained in custody. The 3000.1 hearing considers the gravity and circumstances of parole violation and current threat to public safety. If the hearing panel decides that more lengthy incarceration is necessary then the person is scheduled annually for a parole consideration hearing until released.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

*The Board has made the following initial determinations:*

**Local Mandates:** The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

**Fiscal Impact Statement**

- Cost to any local agency or school district which must be reimbursed in accordance with Government Code

- |                                                                      |                        |
|----------------------------------------------------------------------|------------------------|
| §§ 17500 through 17630:                                              | <i>None</i>            |
| • Cost or savings to any state agency:                               | <i>Not Significant</i> |
| • Other non-discretionary cost or savings imposed on local agencies: | <i>None</i>            |
| • Cost or savings in federal funding to the state:                   | <i>None</i>            |

**Significant Statewide Adverse Economic Impact on Business:** The Board has determined that there is no significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with business in other states

**Cost Impacts on Representative Private Persons or Businesses:** The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Assessment of Effects on Job and/or Business Creation, Elimination Or Expansion:**

The Board has determined that adoption of this regulation will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing business within California; or (3) affect the expansion of businesses currently doing business within California.

**Effect on Housing Costs:** The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

**Small Business Determination:** The Board has determined that the proposed regulation does not affect small business. This regulation directly affects prisoners, parolees and attorneys, who represent them at the small number of these special hearings. Thus, the impact on businesses is beneficial, but minimal. The impact on consumers is also minimal given that the attorneys are appointed by and paid for by the state in the great majority of instances since most of the prisoners/parolees meet indigency standards.

## **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The Board did not rely on any technical, theoretical, or empirical studies in consideration of the proposed action.

## **ALTERNATIVES TO THE REGULATION CONSIDERED BY THE AGENCY**

The Board must determine that no reasonable alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. While the Board also

considered panels of one or two Deputy Commissioners, it determined that the gravity of the consequences of this hybrid parole revocation hearing were closer to those of a life prisoner parole consideration hearing. Therefore, the Board elected to include two commissioners, one of which shall be a deputy commissioner.

## **ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The subject of this regulatory action has a direct effect on prisoners and parolees. Any impact on small business would be indirect and likely insignificant. The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

The Board invites interested persons to present to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

## **CONTACT PERSON**

Please direct requests for copies of the initial statement of reasons, the proposed text of the regulations, or other information upon which the rulemaking is based to:

**Teresa A. Arcure, Regulations Coordinator**  
**Board of Parole Hearings**  
**PO Box 4036**  
**Sacramento, CA 95812-4036**  
**Telephone: (916) 445-5277**  
**Facsimile: (916) 322-3475**  
**E-mail: [Teresa.Arcure@cdcr.ca.gov](mailto:Teresa.Arcure@cdcr.ca.gov)**

In any such inquiries, please identify the action by using the Board's regulation control number RN 06-02.

**Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: Tracy Leifker (916) 324-9890.**

Questions on the substance of the proposed regulatory action may be directed to: Marc Remis, (916) 322-6729.

Website Access: Materials regarding this proposal can be accessed from the Board's website at [http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html)

## **AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, Form 400 (Notice of Submission of Regulations), the proposed text of the regulation, statement of emergency, Form 399 (Fiscal Impact Statement) and the initial statement of reasons. Copies may be obtained by contacting Teresa Arcure at the address or phone number listed above. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulations are available on the Board's website at [http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html)

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Teresa Arcure at the address indicated above or by visiting the Board's website at [http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html). Further, The Board will accept written comments on the modified regulations for 15 days after the day on which they are made available.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained from the Board contact person or the Board's website at [http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html).

## **AVAILABILITY OF DOCUMENT ON THE INTERNET**

Copies of the Notice of Proposed Action, the proposed text of the regulation, Statement of Emergency, and the Initial Statement of Reasons can be accessed through the Board's website at [http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg\\_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html).

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